

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HMM CO. LTD.,

Plaintiff,

v.

LOUIS DREYFUS CO. FREIGHT ASIA PTE.
LTD.,

Defendant.

IN ADMIRALTY

CASE NO.: 21-1561 MJP

**ORDER AUTHORIZING
ISSUANCE OF PROCESS OF
MARITIME ATTACHMENT AND
GARNISHMENT**

Having reviewed and considered the Motion for Issuance of Process of Maritime Attachment and Garnishment of Plaintiff, HMM CO., LTD., and Plaintiff's Verified Complaint, together with the Attorney Declaration that Defendant cannot be found in the District, and finding that the conditions of Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure appear to exist, the Court hereby:

ORDERS the Clerk to issue Process of Maritime Attachment and Garnishment as prayed for in the Verified Complaint against all property, tangible or intangible, belonging to Defendant LOUIS DREYFUS CO. FREIGHT ASIA PTE. LTD., to wit: bunkers onboard the M/V NIKOLAS XL (IMO: 9311165), which is currently located within the Western District of Washington, in an amount up to USD 3,000,0000 pursuant to Supplemental Rule B; and

1 **ORDERS** that the Clerk of the Court shall issue further, supplementary writs of
 2 maritime attachment and garnishment, on request of the Plaintiff and without further Order of
 3 the Court; and

4 **ORDERS** that the United States Marshal and/or any Substitute Custodian, which is
 5 subsequently appointed by this Court, is authorized to allow the M/V NIKOLAS XL to
 6 conduct normal cargo operations, both discharging and loading, repair works, and to shift
 7 berths (consistent with the U.S. Marshal's requirements), always remaining within this judicial
 8 district, and always at the risk and expense of the vessel's interests; and

9 **ORDERS** that a copy of this Order be attached to and served with the said Process of
 10 Maritime Attachment and Garnishment.

11 **ORDERS** that the U.S. Marshal is released and held harmless for any and all costs,
 12 fees, liabilities, or other expenses in any way arising out of the attachment of the
 13 M/V NIKOLAS XL; and

14 **ORDERS** that the charges and expenses incurred by the U.S. Marshal shall be deemed
 15 *in custodia legis*, and will be paid from the proceeds of the vessel's sale unless otherwise
 16 agreed. If a written objection is timely filed, payment of the disputed charges only shall be
 17 made after the objection is resolved by agreement of the parties or by Court Order. Payment of
 18 the undisputed charges shall not be affected; and

19 **ORDERS** that any property of the Defendant, specifically the bunkers on board the
 20 M/V NIKOLAS XL, may be released from attachment without further order of this Court,
 21 if the U.S. Marshal receives written authorization to do so from the attorney who requested the
 22 attachment and garnishment, stating that he has conferred with all attorneys representing
 23 parties to the litigation, and they consent to the request for the release, and also provided that
 24 the Court has not entered any subsequent orders modifying this arrangement for the release of
 25 the property which was attached pursuant to this Order; and Plaintiff shall hold harmless and
 26 indemnify the United States of America, the United States Marshal, their agents, servants,

1 employees, from any and all claims arising from the attachment and release of the vessel as is
2 herein specifically provided; and

3 **ORDERS** that any person claiming an interest in the property attached or garnished
4 pursuant to order upon application of the Court, be entitled to a prompt hearing in which
5 Plaintiff shall be required to show why the attachment or garnishment should not be vacated or
6 other relief granted;

7 SIGNED at Seattle, Washington this 19th day of November 2021.

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10 Marsha J. Pechman
11 United States Senior District Judge
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